

52-6-201 Indictment or information against officer or employee -- Reimbursement of attorney fees and court costs incurred in defense.

- (1) If a state grand jury indicts, or if an information is filed against, an officer or employee, in connection with or arising out of any act or omission of that officer or employee during the performance of the officer or employee's duties, within the scope of the officer or employee's employment, or under color of the officer or employee's authority, and that indictment or information is quashed or dismissed or results in a judgment of acquittal, unless the indictment or information is quashed or dismissed upon application or motion of the prosecuting attorney, that officer or employee shall be entitled to recover reasonable attorney fees and court costs necessarily incurred in the defense of that indictment or information from the public entity, unless the officer or employee is found guilty of substantially the same misconduct that formed the basis for the indictment or information.
- (2) If the officer or employee is acquitted of some of the charges or counts, or portions of the indictment or information are quashed or dismissed, that officer or employee shall be entitled to recover from the public entity reasonable attorney fees and court costs necessarily incurred in the defense of those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal, unless the misconduct covered by those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal is substantially the same misconduct that formed the basis for charges, counts, or portions of the indictment or information of which the officer or employee was found guilty.
- (3) An officer or employee who recovers under this section shall also be entitled to recover reasonable attorney fees and costs necessarily incurred by the officer or employee in recovering the attorney fees and costs allowed under this section, including attorney fees and costs incurred on appeal.
- (4) Notwithstanding any other provision of this section, an officer or employee may not recover for the costs incurred in defense of any charge, count, or portion of the indictment or information that is quashed or dismissed upon application or motion of the prosecuting attorney.

Renumbered and Amended by Chapter 382, 2008 General Session